

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JTH TAX LLC (d/b/a LIBERTY TAX
SERVICE) and SIEMPRETAX+ LLC,

Plaintiffs,

v.

LORRAINE MCHUGH, RICHARD
O'BRIEN, and KVC ENTERPRISES LLC,

Defendants.

Case No. C20-329RSM

ORDER DENYING MOTION FOR
RECONSIDERATION

This matter comes before the Court on a Motion for Reconsideration filed by Defendants. Dkt. #38. Defendants seek reconsideration of the Court's Order granting Plaintiffs' Motion for Preliminary Injunction, Dkt. #37, arguing that the Court "premised its decision on at least one clear error of law." Dkt. #38 at 1. Specifically, Defendants believe the Court erroneously found that an exception at RCW 19.100.030 applied to the original transfer of franchises from Liberty Tax and SiempreTax that occurred contemporaneously to the Franchise Agreements at issue in this case.¹ Defendants also argue in a single sentence that "the Franchise

¹ RCW 19.100.030(1) provides the following exemption: The offer or sale or transfer of a franchise by a franchisee who is not an affiliate of the franchisor for the franchisee's own account if the franchisee's entire franchise is sold and the sale is not effected by or through the franchisor. A sale is not effected by or through a franchisor merely because a franchisor has a right to approve or disapprove the sale or requires payment of a reasonable transfer fee. Such right to approve or disapprove the sale shall be exercised in a reasonable manner.

1 Agreements are illegal under RCW 19.100.020(1) because... there is no evidence before the
2 Court that offers for sale (from either Liberty Tax or SiempreTax) were ever registered.” *Id.* at
3 6.

4 “Motions for reconsideration are disfavored.” LCR 7(h)(1). “The court will ordinarily
5 deny such motions in the absence of a showing of manifest error in the prior ruling or a
6 showing of new facts or legal authority which could not have been brought to its attention
7 earlier with reasonable diligence.” *Id.*

9 Defendants’ Motion fails to acknowledge the evidence that the Liberty Tax franchise
10 was transferred to Defendants from a prior franchisee, Valsaint Group. *See* Dkt. #35 at 6.
11 Defendants simply do not address this evidence. This uncontroverted evidence demonstrates a
12 strong likelihood that the exception at RCW 19.100.030(1) applies to that transfer for the
13 reasons stated in the Court’s Order. Turning to the SiempreTax transfer, Defendants’ Motion
14 argues that SiempreTax was not a prior franchisee selling to Defendants and may have been an
15 affiliate of Liberty Tax, thus failing to meet the requirements of the 19.100.030(1) exception.
16 *See* Dkt. #38 at 3–5. This fails to show that the Court’s analysis on that transfer was manifest
17 error because the Court did not rely on RCW 19.100.030(1)’s exception for that transfer. *See*
18 Dkt. #37 at 7 (“Plaintiffs have put forth sufficient evidence that SiempreTax was registered to
19 sell franchises in Washington;” “[t]he sale conformed with RCW 19.100.020(1), and
20 Defendants have put forth no evidence to the contrary;” and “it is clear that RCW 49.62 was
21 not intended to apply to the agreement at issue in this case, where Defendants were not
22 operating as independent contractors for Plaintiffs for purposes of this law and were instead
23 operating as franchisees.”). The Court thus has several reasons to believe Plaintiffs are likely
24 to succeed on the merits so as to justify the granting of a preliminary injunction. To the extent
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1 Defendants make new legal arguments based on new legal authority, the Court finds that they
2 have failed to demonstrate that such could not have been brought to its attention earlier with
3 reasonable diligence.

4 The Court finds no other basis to reconsider its prior Order. Having reviewed the
5 relevant briefing and the remainder of the record, the Court hereby finds and ORDERS that
6 Defendants' Motion for Reconsideration, Dkt. #38, is DENIED.
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9 DATED this 21st day of April, 2020.
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14 RICARDO S. MARTINEZ
15 CHIEF UNITED STATES DISTRICT JUDGE
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